

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

KEVIN QUINN,

Plaintiff(s),

*-against-*THE ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK;  
and ST. JOSEPH'S CHURCH SCOTIA, N.Y.,

Defendant(s).

Index No.

*Summons*

Date Index No. Purchased:

November 1, 2019

To the above named Defendant(s)

THE ROMAN CATHOLIC DIOCESE OF ALBANY, NEW YORK  
40 North Main Avenue, Albany, Albany County, New York

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is one or more defendant resides in Albany County, New York  
which is located in Albany County, New York.

Dated: New York, New York

November 1, 2019

SIMMONS HANLY CONROY LLC

by 

Paul J. Hanly, Jr.

Attorneys for Plaintiff

112 Madison Avenue, 7th Floor  
New York, New York 10016  
Tel.: 212-784-6401  
Facsimile: 212-213-5949  
phanly@simmonsfirm.com

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

KEVIN QUINN,

Plaintiff(s),

*-against-*THE ROMAN CATHOLIC DIOCESE OF ALBANY, NEW  
YORK; and ST. JOSEPH'S CHURCH SCOTIA, N.Y.,

Defendant(s).

Index No. \_\_\_\_\_

**Summons**

Date Index No. Purchased:

November 1, 2019

To the above named Defendant(s)

ST. JOSEPH'S CHURCH SCOTIA, N.Y.  
45 MacArthur Drive, Scotia, Schenectady County, New York.

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

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112 Madison Avenue, 7th Floor  
New York, New York 10016  
Tel.: 212-784-6401  
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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

KEVIN QUINN,

*Plaintiff,*

v.

THE ROMAN CATHOLIC DIOCESE OF ALBANY, NEW  
YORK; and ST. JOSEPH'S CHURCH SCOTIA, N.Y.,

*Defendants.*

Index No.

**COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff Kevin Quinn, by his attorneys Simmons Hanly Conroy LLC and the Law Offices of Mitchell Garabedian, brings this action against The Roman Catholic Diocese of Albany, New York and St. Joseph's Church Scotia, N.Y., and alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

**JURISDICTION AND VENUE**

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that the Defendants reside in New York.
2. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.
3. Venue for this action is proper in the County of Albany pursuant to CPLR 503 in that one or more of the Defendants reside in this County.

**PARTIES**

4. Plaintiff Kevin Quinn ("Plaintiff") is an individual residing in Scotia, Schenectady County, New York.
5. Defendant The Roman Catholic Diocese of Albany, New York ("Diocese of Albany") is a New York not-for-profit corporation, with its principal office at 40 North Main Avenue, Albany, Albany County, New York. The Diocese of Albany is a Roman

Catholic diocese. At all relevant times, the Diocese of Albany created, oversaw, supervised, managed, controlled, directed and operated various institutions of the Diocese of Albany, including at all relevant times, St. Joseph's Church Scotia, N.Y.

6. Defendant St. Joseph's Church Scotia, N.Y. ("St. Joseph's") is a Roman Catholic parish within and under the authority of The Diocese of Albany and is a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 45 MacArthur Drive, Scotia, Schenectady County, New York. At all relevant times, the Diocese of Albany created, oversaw, managed, controlled, directed and operated St. Joseph's.

#### **FACTS COMMON TO ALL CLAIMS**

7. In or about 1972, Father James J. Rosch ("Father Rosch") was ordained a Roman Catholic priest. At all times relevant to the allegations set forth herein, Father Rosch was assigned by Defendant Diocese of Albany to serve as a priest of St. Joseph's.

8. Plaintiff and his family were parishioners of St. Joseph's when Plaintiff was a minor. Plaintiff served as an altar boy at St. Joseph's for approximately two years.

9. Plaintiff first met Father Rosch when Father Rosch was assigned to St. Joseph's. In addition to serving as a priest, Father Rosch would oversee basketball practice in St. Joseph's CYO hall, which Plaintiff would regularly attend.

10. It was under these circumstances that Plaintiff came to trust and be under the supervision of Father Rosch, who used his position of trust and authority over Plaintiff to sexually abuse Plaintiff.

11. From about 1974 to about 1976, Father Rosch sexually assaulted, sexually abused, and/or had sexual contact with Plaintiff on the property of St. Joseph's, when Plaintiff was approximately twelve to fourteen years of age, over 40 times in violation of the laws of the State of New York.

12. Father Rosch used his position at St. Joseph's, which granted him access to minors, to gain access to the minor Plaintiff and to sexually assault, sexually abuse,

and/or have sexual contact with the Plaintiff.

**Defendants' Responsibility for the Abuse Committed by Father Rosch**

13. At all times material hereto, Father Rosch was under the management, supervision, employ, direction and/or control of Defendants Diocese of Albany and St. Joseph's.

14. Through his positions at, within, or for Defendants Diocese of Albany and St. Joseph's, Father Rosch was put in direct contact with Plaintiff.

15. Father Rosch used his position at, within, or for, Defendants Diocese of Albany and St. Joseph's and the implicit representations made by them about his character that accompanied that position, to gain Plaintiff's trust and confidence and to create opportunities to be alone with, and sexually touch, Plaintiff.

16. Defendants Diocese of Albany and St. Joseph's had the duty to reasonably manage, supervise, control and/or direct priests who served at St. Joseph's, and specifically, had a duty not to aid pedophiles such as Father Rosch by assigning, maintaining, and/or appointing them to positions with access to minors.

17. Defendants Diocese of Albany and St. Joseph's knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Father Rosch, who sexually abused Plaintiff.

18. Defendants Diocese of Albany and St. Joseph's had a duty to the Plaintiff to properly supervise their agents to ensure that said agents did not use their positions with Defendants as a tool for grooming and assaulting vulnerable children. Defendants knew or should have known that Father Rosch used his positions with the Diocese of Albany and St. Joseph's to sexually abuse minor children, including the Plaintiff.

**Consequences of the Abuse**

19. Plaintiff suffered personal physical and psychological injuries and damages as a result of Father Rosch's actions, as well as other damages related thereto, as a result of the childhood sexual abuse Plaintiff sustained.

20. As a direct result of Defendants' conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of Father Rosch's sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm he suffered as a result.

### **CAUSES OF ACTION**

#### **FIRST CAUSE OF ACTION**

##### **Negligent Hiring/Retention/Supervision/Direction**

21. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

22. Defendants Diocese of Albany and St. Joseph's at all relevant times indicated that minors who attended St. Joseph's would be physically safe while in the presence of priests assigned to St. Joseph's. Defendants Diocese of Albany and St. Joseph's entered into an express and/or implied duty to provide that when Plaintiff was a minor left in the presence of a priest assigned to, hired by, retained by, directed by, and/or under the supervision of Defendants Diocese of Albany and St. Joseph's, Plaintiff would be kept reasonably safe and that that priest would not sexually abuse Plaintiff.

23. Defendants owed a duty of care to all minors, including Plaintiff, who were likely to come into contact with Father Rosch or under the influence or supervision of Father Rosch, to ensure that Father Rosch did not use his assigned position to injure minors by sexual assault, sexual abuse, or sexual contact in violation of the laws of the State of New York.

24. Defendants knew or should have known of Father Rosch's propensity for the conduct which caused Plaintiff's injuries prior to, or at the time of, the injuries'

occurrence.

25. The sexual abuse of children by adults, including priests, is a foreseeable result of negligence.

26. Father Rosch sexually assaulted, sexually abused, and/or had sexual contact with Plaintiff while he was a priest and agent of Defendants Diocese of Albany and St. Joseph's.

27. Defendants Diocese of Albany and St. Joseph's negligently hired, retained, directed, and/or supervised Father Rosch, as they knew or should have known that Father Rosch posed a threat of sexual abuse to minors.

28. Defendants Diocese of Albany and St. Joseph's were negligent in failing to properly supervise Father Rosch.

29. At all times material hereto, Defendants' actions were willful, wanton, malicious, negligent, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiff.

30. As a direct and proximate result, Plaintiff has suffered and will continue to suffer the injuries described herein.

31. By reason of the foregoing, Defendants are liable to the Plaintiff jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

#### **SECOND CAUSE OF ACTION**

##### **Negligence/Gross Negligence**

32. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

33. At all times material hereto, with regard to the allegations contained herein, Father Rosch was under the supervision, employ, direction and/or control of Defendants Diocese of Albany and St. Joseph's.

34. Defendants Diocese of Albany and St. Joseph's owed Plaintiff, at the

relevant times a minor, a duty to protect Plaintiff from Father Rosch's sexual deviancy and the consequential damages, both prior to and/or subsequent to Father Rosch's misconduct.

35. Defendants Diocese of Albany and St. Joseph's knew, or were negligent in not knowing, that Father Rosch posed a threat of sexual abuse to minors.

36. The acts of Father Rosch described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his respective employment, appointment, assignment, and/or agency with Defendants Diocese of Albany and St. Joseph's.

37. Defendants' willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damages set forth herein at length.

38. Defendants Diocese of Albany and St. Joseph's:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others;
- b. failed adequately to supervise the activities of Father Rosch;
- c. permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, with instrumentalities under their control; and
- d. allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

39. At all times material hereto, Defendants' actions were willful, wanton, malicious, negligent, reckless, and outrageous in their disregard for the rights and safety of Plaintiff, which amounted to conduct equivalent to criminality.

40. As a direct and/or indirect result of said conduct, Plaintiff has suffered the



injuries and damages described herein.

41. By reason of the foregoing, Defendants are liable to the Plaintiff jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**THIRD CAUSE OF ACTION**  
**Breach of Non-Delegable Duty**

42. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

43. Plaintiff, when he was a minor, was placed in the care and supervision of Defendants Diocese of Albany and St. Joseph's for the purposes of, *inter alia*, providing Plaintiff with a safe environment in which to participate in educational, youth, and recreational activities. There existed a non-delegable duty of trust between Plaintiff and these Defendants.

44. Plaintiff was a vulnerable minor when placed within the care of Father Rosch, an agent of Defendants Diocese of Albany and St. Joseph's.

45. At all times material hereto, Father Rosch was under the supervision, employ, direction and/or control of the Defendants Diocese of Albany and St. Joseph's.

46. As a consequence, Defendants Diocese of Albany and St. Joseph's were in the best position to prevent Father Rosch's sexual abuse of Plaintiff, to learn of that sexual abuse of Plaintiff and stop it, and to take prompt steps to provide that Plaintiff received timely therapy to address the harm Plaintiff suffered resulting from Father Rosch's sexual abuse of Plaintiff. Such prompt steps would have mitigated the extent of lifetime suffering Plaintiff has had to endure.

47. By virtue of the fact that Plaintiff was sexually abused as a minor entrusted to the care of Defendants Diocese of Albany and St. Joseph's, Defendants breached their non-delegable duty to Plaintiff.

48. As a direct and/or indirect result of said conduct, Plaintiff has suffered the

injuries and damages described herein.

49. By reason of the foregoing, Defendants are liable to the Plaintiff jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

#### **FOURTH CAUSE OF ACTION**

##### **Breach of Fiduciary Duty**

50. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

51. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendants Diocese of Albany and St. Joseph's. This relationship is based on the entrustment of the Plaintiff while he was a minor parishioner and altar boy to the care and supervision of the Defendants. This entrustment of the Plaintiff to the care and supervision of Defendants Diocese of Albany and St. Joseph's, while the Plaintiff was a minor parishioner and altar boy, required Defendants to assume a fiduciary relationship and to act in the best interests of the Plaintiff, as well as to protect Plaintiff due to his infancy and vulnerability.

52. Pursuant to their fiduciary relationship, Defendants Diocese of Albany and St. Joseph's were entrusted with the well-being, care, and safety of Plaintiff.

53. Pursuant to their fiduciary relationship, Defendants Diocese of Albany and St. Joseph's assumed a duty to act in the best interests of Plaintiff.

54. Defendants Diocese of Albany and St. Joseph's breached their fiduciary duty to Plaintiff.

55. At all times material hereto, Defendants' actions and/or inactions were willful, wanton, malicious, negligent, reckless, and outrageous in their disregard for the rights and safety of Plaintiff.

56. As a direct result of said conduct, Plaintiff has suffered the injuries and damages described herein.

57. By reason of the foregoing, Defendants are liable to the Plaintiff jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**FIFTH CAUSE OF ACTION**

**Negligent Infliction of Emotional Distress**

58. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

59. As described above, the actions of Defendants Diocese of Albany and St. Joseph's, as well as their predecessors and/or successors, agents, servants, and/or employees, were conducted in a negligent and/or grossly negligent manner.

60. Defendants' actions endangered Plaintiff's safety and caused Plaintiff to fear for his own safety.

61. As a direct and proximate result of Defendants' actions, which included but were not limited to negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

62. By reason of the foregoing, Defendants are liable to the Plaintiff jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

**SIXTH CAUSE OF ACTION**

**Breach of Duty *in Loco Parentis***

63. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 20 as if fully set forth herein.

64. While he was a minor, Plaintiff was entrusted by his parents to the control of Defendants Diocese of Albany and St. Joseph's for the purposes of *inter alia*, providing Plaintiff with appropriate guidance and an opportunity to enjoy educational and youth activities under responsible adult supervision. These Defendants owe—and owed—a

duty to children entrusted to them to act *in loco parentis* and to prevent foreseeable injuries.

65. Defendants breached their duty to act *in loco parentis*.

66. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

67. As a direct result of Defendants' conduct, Plaintiff has suffered the injuries and damages described herein.

68. By reason of the foregoing, Defendants are liable to the Plaintiff jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

WHEREFORE Plaintiff demands judgment against the Defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be proved at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

### JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: November 1, 2019  
New York, New York

Respectfully Submitted,

/s/ Paul J. Hanly, Jr.  
Paul J. Hanly, Jr.  
[phanly@simmonsfirm.com](mailto:phanly@simmonsfirm.com)  
Jayne Conroy  
[jconroy@simmonsfirm.com](mailto:jconroy@simmonsfirm.com)  
Andrea Bierstein  
[abierstein@simmonsfirm.com](mailto:abierstein@simmonsfirm.com)  
SIMMONS HANLY CONROY LLC  
112 Madison Avenue  
New York, NY 10016  
(212) 784-6401 Telephone  
(212) 213-5949 Facsimile

*Attorneys for Plaintiff*

Of counsel:  
Mitchell Garabedian  
[mgarabedian@garabedianlaw.com](mailto:mgarabedian@garabedianlaw.com)  
William H. Gordon  
[wgordon@garabedianlaw.com](mailto:wgordon@garabedianlaw.com)  
LAW OFFICES OF MITCHELL GARABEDIAN  
100 State Street, 6th Floor  
Boston, MA 02109  
Phone: (617) 523-6250